

**Springerville Planning & Zoning Commission
Regular Session Minutes
November 13, 2003**

Absent: Dan Slaysman

Staff: Kurt Hassler, Zoning Administrator, Michelle Schlosser, Executive Assistant

1. Call to Order

The meeting was called to order at 7:00pm.

Roll Call:	Present:	Arnold Moya William Lucas Larry Martin Bridgett Laney Betty Amator Kay Matthews
	Absent:	Dan Slaysman

Quorum noted.

2. Public Participation

None

3. Zoning Administrator Report

Kurt reported things have been quite. We started on some of the electronic mapping so hopefully we'll be getting some new maps in. It will still take about 6 months to get what we've got here. Other than that it is going pretty good. Any questions?

Additionally, we are keeping a very close eye on RV's coming into town. No RV's are allowed anywhere but RV parks so we're trying to keep a real close eye on that before it gets completely out of hand. We'll discuss Moses and what he has going on out there so that will be a good size RV park for us.

4. Consider approval of the minutes of October 9, 2003. Motion to accept minutes as submitted by William Lucas/Larry Martin.

Vote:	Ayes:	Arnold Moya William Lucas Larry Martin Bridgett Laney Betty Amator Kay Matthews
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5. Consider approval of the minutes of October 9, 2003, regular meeting. Motion to accept minutes of regular session with changes by Matthews/Lucas.

Vote:	Ayes:	Arnold Moya William Lucas Larry Martin Bridgett Laney Betty Amator Kay Matthews
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6. CUP030702-B Review

Review of this CUP skipped at this time to be reviewed later when Mr. Moses arrives.

7. CUP2003-011

Chairman Moya: Consider CUP application from Cellular One to place a communications tower near the Springerville Public Works yard on Papago Street. That lot is zoned RMH-7, section 413, single family residential and mobile/manufactured homes, 7,000 sq. ft. lots. Back to Conditional Use Permits on page 88, we have item #9: Public utility buildings, structures and appurtenances thereto for public service use.

The definition of appurtenances: A legal right, privilege or improvement belonging to and passing with a principal property. I am wondering if that allows us to take and place a tower in this area since we don't specifically have that under Conditional Use Permits?

Kurt: I think it does. And another thing I am basing this on is the proposed ordinance. Under the proposed ordinance you can allow the use location. So that's two reasons I was basing it on.

Chairman Moya: Also, Item #10: Any such other uses which are determined by minute order of the Planning and Zoning Commission to be similar to those uses listed above and not detrimental to the public health, safety and general welfare. I believe that maybe this is why we are reviewing it here tonight. Commission, do we have any suggestions or questions for. . .

Vice Chairman Lucas: You might want to ask for public input first then we could ask for a staff report.

Chairman Moya: Alrighty, we can open this up for public. . .

Vice Chairman Lucas: And in turn questions?

Chairman Moya: Okay. Is that a motion?

Kurt: You don't need a motion. . .

Vice Chairman Lucas: No, you are just soliciting. . .

Chairman Moya: Is there any public input for this particular CUP at this time? Any questions from the Commission?

Commissioner Matthews: Bridgett, did you have something?

Commissioner Laney: I was just wondering if we've had any response from the surrounding property owners into Planning and Zoning?

Kurt: At Town Hall, from my knowledge, we've only received one phone call from Mr. Dennis Silva. He's a property owner that we sent a letter and he did not like the idea of a tower in this location.

Chairman Moya: Councilman Nedrow, is there anything you'd like to add or say on this?

Councilman Nedrow: I was asked twice, where you were originally going to put this, Jerry Keeney was going to make \$500.00 off of putting the tower there, it was determined it couldn't be done there, one of the complaints I got today was, well was that fair for the town to not

allow a private person to receive the money but put it on our property, take the money, there's a law suit there, I got all kinds of things told to me. So, is the same restrictions that was going to be on the tower on main street is it going to be the same restrictions on our property?

Chairman Moya: That's a really good question because we have been recommended that the height of the tower be restricted to 90ft., the tower must be painted grey in color, the tower must meet the criteria in the attached document entitled "Uniform Policies, Guidelines, Regulations, Restrictions with respects to communication towers, antennas in the Town of Springerville but the setback will be reduced to 100% of the height of the tower. Cellular One must provide a legal survey of the property showing the location of the property lines, tower site and all buildings within 150' on the public works yard. A contract must be developed with the town to allow for the construction of the tower in town property. It has somewhat changed to what it was in the past however the location I believe makes it a little more feasible to . . .

Councilman Nedrow: And not so . . .

Kurt: The only change in the restrictions is the Tower height. And that's based on strictly what they've asked for. They've asked for 90 this time . . .

Chairman Moya: Well I believe the setback was reduced by 100%. Can you define what 100% is of the height . . .

Kurt: In the document is 125% but it says it can be reduced to 100% by commission action. The reason I've asked that it be reduced to the 100% was the site behind the El JO still had not met the 100% setback requirement. They were still short on one side. In this case there is nothing around the site and with the additional height being the 90ft., a 125ft. setback could not be met but 100 could easily. So, that was the reason for reducing that to 100%. I felt comfortable in doing that because even by doing that on the first site they still were not able to meet the setback requirement.

Chairman Moya: Could you define that 100% for me as far as tower height and setbacks?

Vice Chairman Lucas: My understanding would be it would appear that their conditional use permit asks for 100ft. or conditions apparently restricting it to 90' and I don't believe, do we have representatives from Cellular One? And you are in agreement with going from the 100ft. request to the 90'?

Cellular One, Carl Wibel: I can talk with _____ to find out if that would be a problem regards to engineering. _____ different location, the geographic different location, the request. I was not aware of that. I am going to have to take that back.

Kurt: I apologize, I didn't read the document to see the 100ft. When you first _____, the verbal was 90' and that is what I used.

Vice Chairman Lucas: Chairman Moya, the way I would interpret it is if it asked for 100', the ordinance said you would want to have a 125' setback such that from the center line of the tower. You have a spacing of 125ft. for which there'd be no structures or the like in that area such that if it were to fail, there is nothing in the immediate path of it. Now we're asking for apparently, restricting the height to 90' and something in the neighborhood of 115, 120' might, Mr. Hassler, could be impacted?

Kurt: Not at 125', we could not meet the setback requirements. There is a lot at the very end there that is at 201ft. So a 90' tower could meet the 100ft. setback with no problem. But 125% cannot.

Vice Chairman Lucas: I guess if you're asking, the way I'd interpret it is it is somewhat subject to what the commission feels depending on what is in the surrounding area such that if you were to have a failure is there anything in imminent danger of this falling on? It appears, from what I'm hearing is that it's not the case. Although, one of the requirements is to provide a legal survey that would indicate, this is the point where it would be physically located on the lot and showing what's within that, say 100ft. radius. And I am taking the nod of positive acceptance of the Cellular One people that that would be done so, and that is an acceptable condition.

Cellular One, Carl Wibel: We are required, we would do a survey, any property we have to survey the entire parcel and within that survey would show the least area so you'd have the entire survey of that parcel as well as showing where that 20 x 20 request _____ area would be as well as the location of the equipment of the tower.

Commissioner Martin: I wanted to ask, is there anything in the proposed restrictions that you cannot move it?

Cellular One, Carl Wibel: I heard 90ft. _____, setbacks, legal survey and a contract.

Commissioner Matthews: So what I am hearing and this is what I heard earlier, Gary Keeting was going to get the \$500.00 a month and now the Town of Springerville is going to absorb that. Over in that area, I can tell you've got an animal shelter over there, you've got a propane tank over there close to the animal shelter, you've got the public works building, you've got all their equipment, we don't know what kind of distance is going to be met and the other thing is, when we had the meeting last month of the month before, the primary thing I heard in this meeting was, the area behind the Saffire was the best spot and now we've moved to another spot and I guess I am confused. If we made the, if we turned that one down than why are we turning around and looking at another one when we were told that that was the primary location in this community.

Kurt: And I think he'll tell you it was the primary location. The fact is that they cannot meet the requirements of the conditional use permit.

Commissioner Matthews: I understand that but now. . .

Kurt: So they had to find another site. They still want a tower in this town so now they have to find another site. This is. . .

Commissioner Matthews: So, are we going to shop around until we find a spot that everybody agrees on and keep having these meetings like this?

Kurt: That's probably what is going to happen.

Chairman Moya: I would imagine the condition can be placed, as far as the length of time the tower is placed there and that this be re-looked at and once we determine where we actually want towers in the city of Springerville then we go from there. Whose to say that a time could be, 5 years, something like that. Technology could change within that time and they might not even need the tower. This is some of the things that the commission could look at and see. I personally feel that this second location is probably a better one than the one where it was sticking right out in front of the main Town of Springerville. I don't know what the commission thinks but I guess we will find out as soon as we approve or reject.

Commissioner Martin: I think it's on the edge of the town building and far more eye appealing and it would give Cellular One the opportunity to operate in a regular advantage and the police department and everybody could use it. I think it is a better solution than before.

Chairman Moya: We will still be able to use the tower for our antenna if we need?

Kurt: That would be decided through the negotiation process and the actual contract. I would make that as part of the conditional use permit and contract negotiations.

Chairman Moya: The monopole also resembling parking lots at Arizona Mills mall. I was down there after we had the meeting and I looked at their lights and man, any one of those could be a digital tower. So, and they really didn't look that bad. Do we have any other opinions or questions from the commission?

Vice Chair Lucas: On this monopole, are there guidewires required for support or is it self-standing?

Cellular One, Carl Wibel: It's self supporting based on the foundation. We had to do a geo-tech study, actually for the soil, to see what kind of soil we are going to have under the foundation. No, it's self-supported. The structure is approximately 24 to 28" in diameter. The pole itself. And it buried into the ground so there are no guidewires.

Vice Chair Lucas: My concern there being as in the public works area that makes you somewhat suspect that it could be hit by vehicles . . .

Kurt: Yes, that was taken into consideration.

Commissioner Martin: Motion to accept with the guidelines described here.

Commissioner Amator: I thought we were going to discuss it amongst ourselves?

Chairman Moya: Yeah, we definitely can take and, I was asking for . . .

Commissioner Amator: Okay, then I have some comment. On the parcel map that is included in the packet, there's diagonal lines all along through here. Can you explain that to me?

Kurt: I can not. I don't have a clue. I haven't had a chance to check and see what those diagonal lines mean. My guess is, and this is just a guess. Betty, you probably know better than I do. This whole section of town is a mess.

Commissioner Amator: The survey's are a mess . . .

Kurt: Legal descriptions wise, it's a mess and my guess is those are areas, I can't figure out . . .

Commissioner Amator: These are called overlaps. These are problems in the surveys, in the ownerships. And beings as we don't have a required survey and site plan, I see problems with all of this because this property being RMH-7 that is surrounding it, the property owners are entitled to go to 7,000 sq. ft. lots which makes them very small lots. It won't necessarily be a big pasture out here if they so decide to develop and I see problems with this and I think all of this needs to be checked out before there's any voting in a site plan of truth before we even consider it.

Chairman Moya: Any opinions on Commissioner Amator's concern? From any of the other Commissioners?

Vice Chair Lucas: Well the question, having a survey completed you are expecting to have what defines . . .

Commissioner Amator: The site plan like we normally get in our packet that tells where it will be located and how many feet from the property line. Because if there was an overlap here and this is not right here and ____ here, if they put a house here there'd be a problem. Just a comment.

Vice Chair Lucas: And a sideline on that, on the right of the ford, where Cellular One would be providing a legal survey of the property showing the location of property lines, tower site all dealings with that 150', that might suffice for what you're looking for because in effect by doing that, they can come back with a site plan but maybe another approach to take would be that if it meets all the restrictions that have been placed on this and is in accordance with the other aspects of the ordinance, they would be giving, this evening, if it were to pass, they are given tentative approval provided they meet these requirements. If they were to come back with a legal survey and at the next meeting we were to find out that, with the site plan, that's how I would interpret item #4, it could be very clearly shown that it meets the setbacks and is within the prescribed areas with the town, etc., etc. It would meet some of the requirements that you are looking for. But, if you are going to say do that, then come back, I could appreciate there's a cost involved and you would like to have some assurance if it were to meet those things, we are good to go. Asking to keep going out surveying, come back, give us another site plan, we evaluate that plan. . . It can all be done at one time this evening. If it doesn't meet those requirements then I am sorry. At the next meeting it would not be permitted, you would have to come back with another option but if it does, they are good to go.

Chairman Moya: At this point we are probably ready for a motion?

Commissioner Martin: I make a motion that we accept it with the provisions required as long as the survey bears

Vote:	Ayes:	Arnold Moya
		William Lucas
		Larry Martin
		Bridgett Laney
		Betty Amator
		Kay Matthews

4. CUP2003-009 Review

Arnold Moya: We have the recommendation for the conditional use permit to be approved on Parcel #105-20-049B with the following conditions

- 1) Install and maintain a fence around the tower,
- 2) Limit the height of the tower,
- 3) Disguise the tower as a tree or something similar,
- 4) Follow the conditions of the proposed town ordinance.

Public Participation

Gary Kiehne, owner of El Jo Inn submitted to the commission a letter from his insurance company stating he would not have to make any changes to his insurance policy when and if the new tower is erected.

Public Participation discontinued

Kurt: It appears that Gary Kiehne, owner of the El Jo Inn, owns #49C, 49D, 49B and at least a portion of 48 and maybe a portion of 45. He has a strip of land that goes all the way out to Apache St.

Arnold Moya: We have reviewed the sections and we are still not finding the setback that we want. However, Mr. Administrator, we did decide what we have to take and approve?

Kurt: That would be my opinion. The way I interpret the manual, these are "shall" conditions. The permit has to be issued but you can place whatever conditions you want on it. But the permit has to be issued.

Arnold Moya: So now, back to the Commission. As far as conditions that we want to append to the existing conditions, are there any?

Kay Matthews: We want the setbacks.

Arnold Moya: The setbacks will fall under the town zoning code.

Kurt: If you want the setbacks, you have to set the setbacks on the conditional use permit because that ordinance is not effect and will not be in effect until at least December or January.

Arnold Moya: Commissioner Lucas, do you have any suggestions or recommendations?

William Lucas: Well, since there isn't a motion at this point, my concern is that I'd want to see setbacks in accordance with the ordinance being recommended to the Town Council.

Arnold Moya: This is correct. That's the way that it reads. The recommendations follow the conditions of the proposed town ordinance. So are there any additional recommendations the commission would like to recommend.

Bridget Laney: Do we have a distance to the nearest residential dwelling from the motel?

Kurt: That has not been provided.

Carl Wibel, Cellular One: I would say approximately 40' to the east, the mobile home right there.

Betty Amator: Chairman Moya. I don't see how we can issue a conditional use on a proposed tower ordinance.

Kurt: Your not. Instead of restating all of those criteria, you're saying follow these criteria.

Betty Amator: But what if the council changes it?

Kurt: It doesn't matter. They are independent of one another.

Bridget Laney: What comes to mind, when they are saying follow the conditions of the proposed tower ordinance. Within that ordinance there's the proper set-back. Are we waiving that set-back in order to allow this one or are we, I am at a confusion point where we can say yes, we can give that to you if you abide by something we don't have.

Kurt: No. You have it. You have it in front of you. It's in black and white. These are the conditions. The fact that it's going to be an ordinance, has no bearing on this whatsoever.

Motion to issue the conditional use permit with the conditions as stated by Larry Martin/William Lucas.

Kurt: I just want to clarify. The height of the tower is 70' maximum, installing the fence, painting the tower a shade of gray and follow all other conditions as set forward in the proposed ordinance.

Vote:	Ayes:	Arnold Moya
		William Lucas

Nays: Larry Martin
Bridgett Laney
Kay Matthews
Betty Amator

8. Work Session

Motion to schedule a work session to occur on our regularly occurring December Planning & Zoning Meeting at 6:00pm by William Lucas/Larry Martin.

Vote: Ayes: Arnold Moya
William Lucas
Larry Martin
Bridgett Laney
Betty Amator
Kay Matthews

9. CUP2003-010

Kurt: This is a conditional use in a C1 zoning district.

Bridget Laney: I have a question on the parking. There is no site plan for parking for that location and if it's outdoor eatery then they are out in front of the building. Where's the parking?

Kurt: Along the street. That's the only parking available for any downtown business. There is no where else to park.

Kay Matthews: Is there any relation between that building and the nursery right there?

Arnold Moya: I do believe they own both properties.

William Lucas: Since staff has made a recommendation that a fence be installed, do you have some sense of what you are considering appropriate either fencing material or height.

Kurt: They already have one and my only suggestion was to make sure they maintain that existing fence or something similar. You may want to put a minimum height restriction of a few feet.

Motion to accept CUP2003-010 with the condition that the fence is maintained and to forego the parking requirements of street parking by Larry Martin/Kay Matthews.

Vote: Ayes: Arnold Moya
William Lucas
Larry Martin
Kay Matthews
Nays: Betty Amator
Bridgett Laney

9. ADJOURNMENT

Motion to adjourn the meeting by Larry Martin/William Lucas seconds the motion.

Ayes: Arnold Moya
William Lucas
Larry Martin
Bridget Laney
Betty Amator

Kay Matthews

Arnold Moya, Chair